Supreme Court, U.S.
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88-83

No.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1987

ARTHUR N. AND PHYLLIS H. ECONOMOU,

Petitioners,

v.

U.S. SECURITIES AND EXCHANGE COMMISSION,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Arthur N. Economou, Pro Se
Phyllis H. Economou, Pro Se

115 East 87th Street, #39A
New York, New York 10128
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QUESTION PRESENTED

In light of the conduct of Milton Gould, Esq., purported receiver and Officer of the Court in this case:

1) ... who, through concerted suppressive procedural maneuvering with the Securities and Exchange Commission ("SEC"), the U. S. Attorney's Office and others, has unlawfully thwarted the intention and mandate of the U. S. Congress specifically calling for the formation of a national market system under provisions of Sec. 11-A of the Securities Acts Amendments of 1975;

2) ... who, through concerted suppressive procedural maneuvering with the SEC, the U. S. Attorney's Office and others has restrained and thwarted, in violation of Sec. 11-A of the 1975 Amendments, Sec. 1 of the Sherman Act and New York State antitrust laws, major ABT

and ABTNMS 1982-1986 efforts to actuate the finalized nucleus of The American Board of Trade National Market System;

3) ... who, together with the SEC and the U. S. Attorney's Office, has engaged in unlawful press interviews and other acts to defame the ABT, ABTNMS and petitioner Arthur Economou in the eyes of ABT's 10,000 customers, 171 Members, the Courts, the U. S. Congress and investing public through fraudulent misrepresentations and fraudulent nondisclosure of material facts, which, in violation of the First, Fifth and Fourteenth Constitutional Amendments, effectively chilled all legal defensive capabilities of the ABT, ABTNMS and the Economous;

-- Should not this Court call for exercise of its power of supervision of the 1983-1988 SEC v. ABT et al legal confrontation, pursuant to Rule 17.1(a)?

LIST OF PARTIES

Co-petitioners Arthur N. Economou and Phyllis H. Economou and the Securities and Exchange Commission ("SEC") as Respondent, are the only parties listed in the caption of this petition.

However, The American Board of Trade, Inc., a membership exchange and marketplace and its fully-owned corporate subsidiary, The American Board of Trade Service Corp., were defendants in the proceedings below. Each was represented by legal counsel from 1983 through about August, 1986. Since that time, their interests and positions have not been represented by legal counsel.

Parties named below are listed as "Entities" of The American Board of Trade in Appendix "A" of the district court order that placed all in equity receivership in September 1986, with Milton

Gould, Esq. as special master and interim receiver. Three of the organizations listed, indicated by asterisks, are structurally independent of and not related to The American Board of Trade corporate complex.

The interests and legal positions of the following parties are affected by decisions rendered in these proceedings by this Court:

The American Board of Trade, Inc. ("ABT")
ABT Service Corp.
ABT Clearing Corp.
ABT Development Corp.
ABT Dealer Specialist Corp.
ABT National Market System, Inc.
ABT Research Institute, Inc.
ABT New Hampshire, Inc.
ABT Merrimack Valley North, Inc.
ABT Merrimack Valley Central, Inc.
ABT Merrimack Valley South, Inc.
ABT Wisconsin, Inc.
ABT Dane County, Inc.
ABT New Jersey, Inc.
ABT Bergen County, Inc.
ABT Virginia, Inc.
ABT Dranesville District, Inc.
ABT California, Inc.
ABT Pennsylvania, Inc.
ABT New England, Inc.
ABT Northeast Atlantic, Inc.

ABT Appalachian Region, Inc.
ABT Southeast, Inc.
ABT Midwest Great Lakes, Inc.
ABT Southern Great Plains, Inc.
ABT Northern Great Plains, Inc.
ABT Rocky Mountain Region, Inc.
ABT Pacific Coast, Inc.
ABT Government Fund, Inc.
New Hampshire Intra-State "Micro" Money Market Fund, Inc.
Journal of Investment Finance, Inc.
Arthur N. Economou & Co., Inc.*
Economou Financial and Development Corp.*
American Association of Commodity Traders *

With the exception of the ABT and ABT Service Corp., none of the above corporations has been represented by Counsel in the 1983-88 SEC v. ABT legal proceedings.

* * *

Additional parties are:

Approximately 10,000 ABT Customer/Creditors -- who have not been represented, collectively or individually, by Counsel in these 1983-88 SEC v. ABT legal proceedings;

171 Members of the ABT -- who have

not been represented, collectively or individually, by Counsel in these proceedings. Petitioner Arthur Economou's Motion, as an ABT Member, to intervene on their behalf was denied by the district court without comment, which decision was affirmed by the Second Circuit.

Milton Gould, Esq.
Shea & Gould
Birnbaum and Mindel

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L) Inventory List Of "Major Equipment" In Concord, NH and Burlington, VT In Coopers & Lybrand's 1986 Report

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PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Petitioners Arthur N. Economou and Phyllis H. Economou jointly respectfully pray that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The district court's December 16, 1987 Memorandum Opinion and Order is submitted as Appendix A, and petitioners' Notice of Appeal filed January 12, 1988 is submitted as Appendix B. The Appeal was assigned Docket No. 88-6026 by the Court of Appeals for the Second Circuit and the scheduling order issued January 29, 1988, is submitted as Appendix C.

On February 22, 1988, petitioners filed with the Second Circuit Motion for a 30-day Emergency Stay of the major auction sale of American Board of Trade assets located in New Hampshire and Vermont, scheduled by Milton Gould, Esq., without Notice to parties, for February 24, 1988 in Concord, NH, pending filing of Petition for Writ of Certiorari before judgment with the United States Supreme Court on March 8, 1988. Petitioners'

Motion for the Emergency Stay was denied without comment by the Second Circuit Appeals Court on February 24, 1988. The denial is submitted as Appendix D. (The one-sentence Order is reproduced on D-3).

The Second Circuit's March 21, 1988 Order, dismissing petitioners' January 12, 1988 Appeal Docket No. 88-6026, is submitted as Appendix E. (The 9-line Order is reproduced on E-3).

The district court's July 31, 1986 Order appointing Milton Gould, Esq. ("Gould") as the new Special Master, is submitted as Appendix F.

JURISDICTION

This is the third Petition for Writ of Certiorari filed by petitioners since January 26, 1988 and one of six current sectors of diverse legal actions now before this Court that have evolved through the Second Circuit from an

ongoing injunctive and now receivership proceeding related to the Securities and Exchange Commission versus The American Board of Trade 5-year case in the District Court for the Southern District of New York, 83 Civ. 6213 (SWK).

On January 26, 1988 petitioners each filed Motion and Affidavit to proceed in forma pauperis under this Court's Rule 46. On January 26, 1988 a substantive Petition for Writ of Certiorari was also filed with this Court related to the four sectors of legal actions adversely decided by the Second Circuit on September 28, 1987, which was Docketed as No. 87-6298. The Petition was denied on March 7, 1988.

On April 1, 1988, petitioners filed Petition For Rehearing and respectfully moved the Court to vacate the denial and grant the Petition, stressing the grounds that No. 87-6298 is critically required

to serve as the inextricable intermediate base into which to consolidate all reviewable sectors, issues and episodes of the SEC v. ABT case since 1983 for meaningful review by this Court.

The second Petition for Writ of Certiorari relative to the fifth sector, was initially filed January 30, 1988. The Petition, which was structured in form to meet requirements of Rule 46, as understood by petitioners, included two separate Applications: 1) That this case be consolidated with petitioners' case Docketed under No. 87-6298; and 2) for a stay of the sale of the ABT building in downtown New York City pending this Court's reviews. A separate Appendix was submitted in support of the Petition and the two Applications.

In a letter dated March 3, 1988, received March 10, 1988, petitioners were

advised that the Petition was Docketed January 30, 1988, under No. 87-6453. Application for stay of the sale of the ABT building was denied by Honorable Justice Marshall on March 4, 1988.

In a letter dated April 18, 1988, received April 25, 1988, we were advised by Honorable Joseph F. Spaniol, Jr., Clerk, that petitioners' motions for leave to proceed in forma pauperis were denied by this Court, and that we were allowed until May 9, 1988 to submit a Petition for a Writ of Certiorari in compliance with Rule 33 of the Rules of this Court and to pay the docketing fee required by Rule 45(a).

Revised Petition under Docket No. 87-6453 was timely filed May 9, 1988, pursuant to Rule 33, to comply with this Court's Order of April 18, 1988.

The instant third Petition is filed

pursuant to Rule 33. Fee involved was paid at time of filing. The jurisdiction of this Court to review the judgments is conferred by 18 U.S.C. Sec. 1254.

STATUTES INVOLVED

First, Fifth and Fourteenth Amendments of the U. S. Constitution

Section 11A of the Securities Acts Amendments of 1975

Sherman Act and Clayton Act

The "RICO" Statute

New York Civil Practice Law and Rules ("CPLR"), as follows:

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STATEMENT OF THE CASE

This case is one of six recent sectors of diverse legal actions that have evolved through the Second Circuit initially from an injunctive and now a receivership proceeding filed August 1983 in the District Court for the Southern District of New York, 83 Civ. 6213 (SWK), by the Securities and Exchange Commission ("SEC") vs. The American Board of Trade, Inc. ("ABT"), The American Board of Trade Service Corp., petitioners Arthur N. Economou and Phyllis H. Economou, president and vice president, respectively, of the corporate defendants.

The ABT, a new exchange and marketplace complex, comprised of The American Board of Trade National Market System ("ABTNMS"), its evolutionary outgrowth, founded in 1982, 171 individual members and 30 divisional corporate subsidiaries,

commenced operations in 1969 under the direction of petitioners, the co-founders and first two members of ABT.

The 1983 SEC action sought an injunction related to the ABT and ABT Service program of sales of commercial paper to the public as a source of supplementary short term financing for the exchange complex. The program was started in 1969 and had continued uninterruptedly for 14 years without a single substantial customer complaint, without a single lawsuit, and with the full knowledge of and interim monitoring by the SEC over the years. By 1983, about 9,000 ABT customers were participating in the commercial paper program and total ABT commercial paper outstanding was at approximately the $55,000,000 level.

In September, 1984 the district court issued a preliminary injunction

prohibiting further sales of ABT commercial paper; the Second Circuit stayed the order a month later. In December 1984 the Second Circuit reversed and remanded with a continuing stay to allow time for ABT to register the commercial paper program with the SEC under supervision of the district court. Notwithstanding ABT's good faith efforts and diligence in pursuing the registration process, a fact openly acknowledged on the record by the district court, the unusual and unwarranted requirements demanded by the SEC relative to what was an unprecedented registration process, were impossible to meet. In May 1986 the district court "regrettably" found that registration was "impracticable" and reinstated an injunction; the Second Circuit affirmed in July 1986. In September 1986, upon the SEC's application to the district court, the

ABT and all its entities were placed into mass equity receivership. Milton Gould, Esq. was appointed special master in late July 1986, and interim, or equity, receiver in September 1986.

Four of the separate current sectors of diverse legal actions in the district court proceedings were initially filed in the Second Circuit in the form of four individual appeals. The four were consolidated early in 1987 into a single appeal, adversely decided on September 28, 1987. Petition for Writ of Certiorari for that case was filed on January 26, 1988 and Docketed under No. 87-6298. It was denied on March 7, 1988. Petition for Rehearing was filed April 1, 1988.

In the April 1, 1988 Petition For Rehearing, petitioners respectfully moved the Court to vacate the denial and grant the Petition, stressing the grounds that

Docket No. 87-6298 is critically required as the intermediate base into which to consolidate all the reviewable issues and sectors of the SEC v. ABT case since 1983, thus providing the overall legal structure for meaningful review.

The legal sectors, or issues, embraced by and forming the No. 87-6298 intermediate base are:

a) The Gag order issued by the district court from the bench in September 1986 on a non-objective basis, and continuing in force, prohibiting both petitioners from communicating in any manner or form with ABT's 9,100 commercial paper customers; b) denial by the district court and dismissal by the Second Circuit of petitioners' substantive Motion To Amend Answer to SEC's Amended Complaint in this action; c) denial of petitioner Arthur Economou's

Petition To Intervene in the SEC v. ABT proceedings on behalf of 171 ABT Members who remain unnoticed and unmentioned by the district court, the Second Circuit, the SEC and Gould in these proceedings the past five years; d) the civil and criminal contempt charges initiated sua sponte by the district court in late 1986, resulting in incarceration of petitioner Arthur Economou, two $1,000 fines and a compensatory legal penalty of $175,000 against him payable from personal funds; e) freeze of $500,000 of petitioners' personal funds and assets, an amount approximately double the total value of petitioners' life savings and personal belongings, to cover borrowings by petitioners over 17 years from the ABT complex and from petitioners' two wholly-owned companies, while disregarding and denying petitioners' documented claims to

approximately $2,000,000 in earned fees and ABT membership benefits owed to them by the ABT Clearing Corp.

As previously mentioned, in a letter dated March 3, 1988 petitioners were informed that their second Petition for Writ of Certiorari was Docketed January 30, 1988 under No. 87-6453. The case related to the district courts' July 15, 1987 Order approving the auction sale of the ABT headquarters building to Birnbaum & Mindel for $4,100,000. The Order was challenged by Nira Properties, Ltd. ("Nira"), which claimed an auction sale procedural right to buy the building for $2,850,000, a claim denied by the district court. Nira appealed. On August 6, 1987 petitioners' also appealed the district courts' July 15, 1987 Order to the Second Circuit. Issues involved in petitioners' appeal were totally unrelat-

ed to the single issue posed by the Nira appeal. However, at the August 10, 1987 oral argument on Nira's appeal before the Second Circuit panel, petitioners' multi-issue, unscheduled, unheard appeal was summarily consolidated with Nira's virtually-completed single-issue appeal.

On August 17, 1987 petitioners' filed Motion for a stay of the ABT building sale with the Second Circuit, requesting oral argument. For over two months petitioners' Motion remained unacknowledged and unscheduled.

On September 22, 1987 the Second Circuit denied the Nira appeal, the denial procedurally encompassing petitioners' August 6, 1987 unscheduled and unheard appeal. October 22, 1987 the Second Circuit issued Order stating that petitioners' unscheduled and unheard August 17, 1987 Motion for stay of the

ABT building sale, in light of its September 22, 1987 decision, was moot.

In Petition Docket No. 87-6453, timely filed May 9, 1988 to meet the requirements of Rule 33 as ordered by this Court, petitioners assert, inter alia, that: 1) Certiorari should be granted where the Second Circuit injudiciously withheld scheduling, briefing and hearing of petitioners' substantive August 6 appeal and subsequently on October 22 found petitioners' August 17 Motion for stay to be moot, in light of its Nira appeal decision of September 22 into which petitioners' August 6 appeal had been inappropriately consolidated; 2) Certiorari should be granted where the Second Circuit and the district court are in error in allowing receivership liquidation of the ABT and ABTNMS to proceed on a flimsy jurisdictional basis that

permits Milton Gould, Esq. uncontrolled completely standardless administrative discretion in proceedings employing false assertions and fraudulent concealment of facts; and 3) numerous compelling reasons support the position that interests of justice, due process and public policy will be constructively served if ABT and ABTNMS are afforded fair opportunity to be heard, rather than subverted into oblivion. The petition was denied May 31, 1988.

The Instant (Third)
Petition For Writ of Certiorari

Gould filed Motion with the district court on November 20, 1987 for permission to liquidate remaining ABT assets of the entities that form the ABT and ABTNMS exchange and marketplace complex and divisional subsidiaries (over and above the ABT building sold at auction July 1, 1987). On December 7, 1987 petitioners

filed timely pleadings opposing Gould's Motion. Gould filed no response to the opposition papers. On December 16, 1987 the district court issued its "Memorandum Opinion and Order," submitted as Appendix A, granting Gould's November 20, 1987 Motion in full.

On January 12, 1988 petitioners filed Notice of Appeal of the district court's Order of December 16, 1987 (Appendix B). On January 29, 1988 the Second Circuit Appeals Court issued its scheduling Order (Appendix C) directing filing of petitioners' brief by March 9, 1988, with oral argument to be heard as early as the week of May 2, 1988. The appeal was assigned the Second Circuit's Docket No. 88-6026.

In mid-February, 1988 petitioners' learned indirectly that Gould had scheduled a precipitate and sub rosa auction

sale of the ABT assets in New Hampshire and Vermont, to be held in Concord, NH, February 24, 1988. On February 22, 1988 petitioners' filed with the Second Circuit an Emergency Motion for Stay of the sale, asserting and demonstrating that Gould had violated numerous requirements of New York law through, inter alia, failing to render any accounting of the ABT assets in those, and other, locations; failing to provide proper and adequate notice of the auction sale; concealing the whereabouts of substantive ABT assets and refusing to open his books and records to concerned parties. The Emergency Motion for stay was denied by the Second Circuit February 24, 1988.

In the February 22, 1988 Emergency Motion for Stay of the New Hampshire auction sale, petitioners advised the

Second Circuit of their intent to file with the U. S. Supreme Court Petition for Writ of Certiorari Before Judgment of their Docket No. 88-6026, scheduled to be heard at oral argument in May, 1988, in the following words:

> "A factual pattern of unlawful ABT decimation procedures has clearly evolved, which procedures are subversively conducted by purported receiver Milton Gould, Esq. The instant appeal before this Court, Docket No. 88-6026, involving proceedings and circumstances of Gould's haste and acts of secretive dismemberment and fragmentation of the ABT is inextricably linked to the issues in two petitions for certiorari currently before the U. S. Supreme Court, filed by appellants on January 26 and 30, 1988. It is necessary, therefore, to file petition for certiorari of Docket No. 88-6026 at this time, before judgment by this Court."

In the pleadings, the Second Circuit was advised that petitioners planned to file the Petition for Certiorari Before Judgment on March 8, 1988. In letters dated March 8, 1988 (Appendix G) and

March 17, 1988 (Appendix H), addressed to Elaine B. Goldsmith, Esq., Clerk of the Second Circuit Court of Appeals, petitioner Arthur Economou outlined several new developments which had necessitated revision of the scheduled March 8, 1988 filing date, but reiterated the imminence of the filing with this Court of the Petition for Writ of Certiorari Before Judgment. On March 21, 1988, petitioners' appeal of January 12, 1988, was dismissed by the Second Circuit on the basis that petitioners had failed to file timely papers (Appendix E).

In light of the Second Circuit's dismissal of petitioners' appeal, the instant Petition for Writ of Certiorari has not been designated as "Before Judgment," as indicated in the foregoing communications to the Second Circuit.

REASONS FOR GRANTING THE WRIT

ARGUMENT

A. Certiorari Should Be Granted Where The Constitutional Rights of The ABT Customer/Creditors And Petitioners Under The Fifth And The Fourteenth Amendments Are Violated By Milton Gould, Esq., Acting As Officer Of The Court, Through Multiple Infractions Of New York Law And District Court Directives

Throughout these proceedings, since July 1986, Milton Gould, Esq., the purported receiver of the ABT complex, has acted as a law unto himself, with total disregard for the requirements of New York law under which he was directed by the district court to conduct his responsibilities as Officer of the Court.

In its Order dated February 2, 1987, the district court directed that

> "The application of New York law is appropriate because the transactions were carried out in ABT's New York office."

Gould confirmed that his activities

in the SEC v. ABT proceedings were to be governed by New York law in the ABT headquarters building sale contract he entered into on March 2, 1987, which specified:

> "25. Governing Law. This Agreement shall be governed, interpreted under, and construed and enforced in accordance with, the laws of the State of New York. Any dispute arising under this Agreement shall be subject to the jurisdiction of, and resolved by, the Court."

However, Gould has ignored every requirement of New York law, designed to safeguard the interest of the ABT customers and creditors, and the ABT liquidation proceedings have been and are being conducted in a totally lawless manner, to the detriment of those ABT customer/creditors. Specifically:

1) New York Civil Practice Law and Rules ("CPLR") Sec. 6404 requires the keeping of written accounts itemizing receipts and expenditures, which written

accounts must be open to inspection by any person having an apparent interest in the property. In addition, the district court Order of July 31, 1986, appointing Gould as Special Master (Appendix F) stipulated that "The Master shall keep contemporaneous records of time spent and shall itemize expenses incurred."

Gould has adamantly refused to comply with this requirement of both CPLR Sec. 6404 and the district court. When pressed on the matter in petitioners' February 22, 1988 Emergency Motion to the Second Circuit for Stay of a scheduled auction sale of ABT assets in New Hampshire, Gould's opposing Affidavit of February 23, 1988 included as an exhibit an "Income and Expense Statement" submitted as Appendix I, which lists only net income and net expenses for 1986 and 1987, and a combined total for the two

years. Such a statement fails to meet either the requirements of CPLR Sec. 6404 or the district court directive to "itemize expenses incurred."

The "full accounting" of Gould's expenditures of ABT funds which petitioners, as "persons having an apparent interest in the property" have repeatedly requested, included, among other things, the amount Gould paid Coopers & Lybrand for their superficial, unsigned, unverified Report, and also the amount paid to Gould's own law firm, Shea & Gould, over and above the hourly fee authorized for Gould to cover his administrative duties as specified by the district court.

The rudimentary "Statement of Income and Expenses" submitted to the Second Circuit by Gould on February 23, 1988 revealed yet another questionable appropriation of ABT funds, in contravention

of a district court directive.

In Gould's November 6, 1986, Report Of Special Master and Interim Receiver, he recommended allocation of a $1,000,000 reserve fund from the ABT liquid assets to cover "administrative expenses and other contingencies." This recommendation was adopted by the district court which, in its February 2, 1987, Memorandum Opinion and Order commented:

> "Many paper holders objected to the Master's recommendation that $1 million be set aside for administrative expenses in the belief that it is earmarked for payment to the Master. The purpose of the fund is to ensure that money is available to pay personnel to distribute ABT's assets. Any funds left in the fund will be distributed to noteholders."

In petitioners' February 22, 1988 Motion to the Second Circuit for Stay of the New Hampshire auction sale of ABT assets, it was pointed out that Gould had been appropriating the interest on ABT's approximately $23,000,000 in liquid

assets to cover his administrative expenses, rather than the $1,000,000 reserve fund he had been authorized to set aside for that purpose, with "any funds left" to be distributed to ABT noteholders.

Gould's response in his opposing Affidavit of February 23, 1988 was to admit that up until December 31, 1987, he had utilized $1,418,271.32 of the interest earned on investments of ABT funds to cover unstated "expenses." Gould further stated that interest return on those investments to December 31, 1987 had been only $1,499,341.51, an inordinately low estimated rate of about 4.6% annually on $23,000,000 for a 17-month period, of which he had expended all but $81,070.19 at the end of 1987.

2. Requirements of New York law with regard to the sale of real and

personal property are especially stringent under CPLR Sec. 5236. Among other things, CPLR Sec. 5236 requires a) that printed notice of the time and place of the sale containing a description of the property to be sold shall be posted at least fifty-six (56) days before the sale in three public places in the town or city in which the property is located; b) notice sent or delivered to each creditor and every person who had of record any interest in the property forty-five (45) days prior to the day fixed for the sale and c) publication of the sale notice at least four times at intervals starting fifty-six (56) days preceding the date of the sale in a newspaper published in the county in which the property is located or, if there is none, in a newspaper published in an adjoining county.

In his February 23, 1988 Affidavit

to the Second Circuit Gould misrepresented that he "provided full and complete notice of the auction sale to the public (including the Economous)." This "full and complete notice of the auction" consisted of one advertisement which appeared in The New York Times, hundreds of miles from the site of the New Hampshire auction, on February 14, 1988, just 10 days before the auction, followed by a second advertisement in The New York Times on February 21, 1988, both of which advertisements were included as exhibits to his Affidavit. In addition, Gould stated that on February 21, 1988, three days prior to the auction, advertisements appeared in the Boston Globe and the Manchester (N.H.) Union Leader. Contrary to the requirements of CPLR Sec. 5236, Manchester, NH is located in a different county from the Concord, NH site of the

auction sale. Conspicuously omitted was any mention of an advertisement in the local Concord Monitor, which serves New Hampshire's capitol city, the site of the auction. Petitioners have been unable to ascertain the format of the Boston or Manchester advertisements, or even if they were published at all, either from the newspapers or from Gould's staff.

The foregoing sketchy publicizing of the New Hampshire auction sale of ABT assets seriously violates CPLR Sec. 5236 to the detriment of the ABT customer/creditors who are the de facto owners of the property sold.

None of those ABT customer/creditors received the required formal notice of the auction sale required by CPLR Sec. 5236. The only notice supplied was in the form of a mass mailing by Gould to the ABT customers located throughout the

country dated February 10, 1988. The two-page form letter, submitted as Appendix J, discussing a number of topics, contained a one-sentence mention of the auction sale as follows:

> "In furtherance thereof [the district court's December 16, 1988 Order, Appendix A], I have scheduled a public auction sale of ABT's assets located in Vermont and New Hampshire at ABT's offices at 132 North Main Street, Concord, New Hampshire, on February 24, 1988, commencing at 11:00 a.m."

Petitioners, although parties directly involved in the SEC v. ABT legal proceedings, also received no formal notice of the New Hampshire auction sale. Instead, petitioner Phyllis Economou received a copy of the aforementioned form letter in her capacity as an ABT customer with several accounts. Petitioner Arthur Economou received no notice of any kind. Omission of petitioners from any notice of the auction sale was

not only in violation of CPLR Sec. 5236, but also of the district court order mandating notice to all participants of actions related to case 83 Civ. 6213 (SWK), an omission which constitutes unlawful nondisclosure.

(During the writing of this Petition, on June 13, 1988, an employee of Milton Gould, Esq. hand-delivered to petitioners another form communication from Gould addressed "To All Customers and Creditors of The American Board of Trade, Inc. and its Related Entities." This form letter announced another auction sale of ABT assets scheduled to be held in New York City on June 15, 1988 -- two days hence. Although the form letter was dated June 9, 1988, it was apparently not mailed to those ABT customers and creditors on either that date or the following day. Had it been, petitioner Phyllis Economou,

as an ABT customer/creditor, would have received the untimely communication in the mail. By no interpretation does a form letter hand-delivered two days in advance of the scheduled date of the auction sale conform to the CPLR Sec. 5236 stipulation of notice to creditors 45 days prior to the date of the sale.)

3. Open to serious question is the validity of the ex parte designation of Milton Gould, Esq. as receiver of the ABT complex in its February 2, 1987 Order. Specific statutes relative to appointment of a receiver, such as CPLR Sec. 5228, require appointment by motion of judgment creditor and upon notice to judgment debtor and to other judgment creditors. An ex parte appointment is not lawful, unless agreed upon by all parties in the action that the appointment is acceptable to all concerned.

4. It is a statutory requirement under CPLR Sec. 6402 that a temporary receiver, or receiver, swear to faithfully and fairly discharge the trust committed to him. There is no indication on the record that Milton Gould, Esq. swore such an oath.

5. As the temporary receiver, or receiver, in this proceeding, Gould has completely failed to meet the high level of ethics and responsibility statutorily required by CPLR Sec. 6401. On the contrary, he has resorted to obfuscation and even perjury in denying the disappearance or proposed giveaway of massive quantities of unrecorded, uninventoried and unevaluated ABT assets, a matter which will be further detailed herein.

6. CPLR Sec. 6403 requires the giving of an undertaking and posting of a bond. Nothing on the record indicates

that Gould has complied with this requirement. In a proceeding involving 10,000 individual creditors and tens of millions of dollars, the undertaking and a very substantial bond would be mandatory pursuant to the specific statutory requirement of CPLR Sec. 6403.

B. Certiorari Should Be Granted Where Milton Gould, Esq. As Officer Of The Court Refuses To Render A Full Or Adequate Accounting Required By Law And Basic Legal Ethics Of Millions Of Dollars Of ABT Assets

The primary issue of the instant Petition for Writ of Certiorari is a Motion by Gould to the district court on November 20, 1987 for permission to sell the remaining ABT assets (over and above the ABT headquarters building, which was sold July 1, 1987).

In an Order dated July 31, 1986 (Appendix F), the district court appointed Milton Gould, Esq. Special

Master. One of his assigned duties was:

> (b) to complete a full accounting of the financial condition of all affiliated entities of The American Board of Trade, Inc. ("the ABT entities"), including The American Board of Trade, Inc. ("ABT", The American Board of Trade Service Corporation, and all other entities listed on Schedule A to the Supplemental Order of this Court dated June 12, 1986;

In the July 31, 1986 Order, Gould was authorized to utilize the services of the CPA firm, Coopers & Lybrand ("C&L") in preparing the "full accounting" of the financial condition of the 30-odd ABT Entities and certain other unrelated organizations listed on the district court's June 12, 1986 "Schedule A".

October 14, 1986, Coopers & Lybrand presented their Special Report on The American Board of Trade, Inc. and Subsidiaries, Arthur N. Economou & Co., Inc. and Economou Financial and Development Corp" ("the C&L Report").

The C&L Report made no pretense at being either complete or accurate. It was unsigned by any member of the organization, and in a covering letter, also unsigned, addressed to Gould, referred to the Report as "an unaudited estimated combined summary and analysis of the tangible assets and liabilities of" [the various organizations], which they had prepared "[a]s requested." The letter continued, "... We prepared the summary and analysis solely to assist you in your investigation of the Companies pursuant to the order of the court appointing you as Special Master dated July 31, 1986."

The covering letter further stated:

> "We have not performed any review of transactions or payments made by the Companies which might indicate the presence of additional assets and liabilities, nor have we circularized actual or potential creditors or performed tests of the records to ensure that all liabilities are accurately recorded and are valid. We performed no title search. Had

> we performed such additional reviews and procedures, additional assets and liabilities might have come to our attention that would have been included in the above-referenced summary and analysis ... Since the scope of our procedures was necessarily limited, and since we did not perform an audit examination in accordance with generally accepted auditing standards, we do not express an opinion on any of the financial information contained in this report, and we do not assume any responsibility as to the accuracy of any of such information."

As will be demonstrated herein, the listings of ABT fixed assets in the C&L Report were superficial in the extreme, consisting solely of what were termed "List of Major Equipment" housed in (a) the seven-story ABT headquarters building at 9 So. William St. in New York City (Appendix K), (b) the ABT mailing installation in Burlington Vermont and (c) the extensive ABT premises in Concord, New Hampshire (combined as Appendix L).

No listing, evaluation or even mention was made in the C&L Report of the

large quantity of business machines, equipment and furnishings of substantial value housed in the three above-named locations, and no mention whatever was made in the C&L Report of the substantive assets contained in the ABT premises at (1) 286 Fifth Avenue in New York City, (2) Washington, DC, and (3) Madison, Wis. Neither the C&L Report nor Gould has acknowledged the existence of the latter three ABT office locations, despite our repeated efforts to discover the whereabouts or disposition of their contents.

On January 7, 1988 petitioners opposed the Gould motion on the basis that, among other things, hundreds of thousands, even millions, of dollars of ABT assets, both liquid and fixed, are completely unaccounted for or are being given away by Gould, and that no ABT assets should be sold, given away or

otherwise dispersed until Gould renders a full accounting of the overall ABT assets as required by law. Gould has adamantly evaded submitting such an accounting.

Despite petitioners' detailed itemization of the unrecorded, uninventoried, unevaluated and/or missing ABT assets, none of which were mentioned in the C&L Report, in its December 16, 1987, Order approving the sale of the remaining ABT assets (Appendix A) the district court erroneously stated:

> "A full accounting of the ABT assets, compiled by Coopers & Lybrand, was annexed to the Special Master's Report to this Court dated November 4, 1986 ..."

and in that Order the district court mischaracterized petitioners' request that, prior to its approving the sale of any ABT assets, Gould be required to reveal the whereabouts of and render an accounting of those ABT assets we had

itemized as unrecorded and unmentioned by either C&L or Gould, as a request for "an update of that accounting" which it termed "unwarranted in light of the thoroughness of the original accounting."

Petitioners' characterization of the ABT assets listings in the C&L Report as "superficial in the extreme," despite the district court's December 16, 1987 comment on its "thoroughness," was borne out by auction sale proceedings of the ABT assets in New Hampshire and Vermont which took place in Concord, NH on February 24, 1988. The C&L Report itemization, confined to "Major Equipment" in those locations, consists of 30 listings comprising 38 items only. (Appendix L).

In contrast, a listing prepared by the auctioneers, David Strauss & Co., Inc., ("the Strauss listing") consisted of 285 Lots, which, considering Lots of

multiple substantive items, comprised 404 separate items, excluding the Lots of multiple lesser items such as books, etc. (Appendix M).

It will be noted in comparing Appendix L, the C&L listing, with Appendix M, the Strauss listing, that even the items which do appear on the C&L listing as "Major Equipment" are incomplete. Each C&L-listed item has been indicated on the Strauss listing by an asterisk.

Unexplained is the reason why C&L listed, for example, only 3 Compugraphic Editwriters, whereas 4 appeared on the Strauss listing; only 1 Compugraphic Zebra Processor instead of the 2 listed for sale; failed to list a Compugraphic Light Table and Compukwik; listed 2 IBM Printers instead of the 4 listed for sale; omitted an IBM Display Writer System and IBM Memory Writer, and failed

to list the 5 Copy machines in New Hampshire, although the C&L New York listing (Appendix K) included 5 Copy machines.

As mentioned previously, petitioners learned purely by happenstance that Gould had hurriedly and surreptitiously scheduled an auction sale of ABT assets for February 24, 1988 in Concord, NH, and Petitioners filed an Emergency Motion with the Second Circuit for a 30-day stay of the sale of those uninventoried and unevaluated ABT assets. The Second Circuit was informed that petitioners planned to file with this Court a Petition for Writ of Certiorari Before Judgment and that Gould had refused to provide a full or adequate accounting of the overall ABT assets, receipts and expenditures, or provide notice to the parties, as required by law.

The Emergency Motion was opposed by

Gould February 23, 1988 by means of a disingenuous and misleading Affidavit, which petitioners had no opportunity to refute. As he has done repeatedly, Gould responded with a personal assault against petitioners by characterizing our plea that the Court require him to account for the many millions of dollars in ABT assets with which he has been entrusted as "... yet another scattershot, ad hominem attack on the manner in which I have administered the companies ..." Such a response by Gould obscures the fact that petitioners would have no cause for complaint about the manner in which he has been administering the companies had he conducted himself in a forthright and ethical manner by rendering the legally-required accounting of the ABT's liquid and fixed assets which he has so adamantly evaded.

Gould further stated in the Affidavit, "Also false is the Economous' claim ... that no inventory has been prepared of the assets being sold at the New Hampshire auction. As evidence, Gould submitted a copy of the Strauss listing which had been prepared on February 16, 1988 (Appendix M). This was a gross misrepresentation as Gould is well aware that our assertions made repeatedly since October, 1986, have been that neither he nor C&L had ever prepared any comprehensive or adequate record of those assets.

The Gould Affidavit was replete with further misstatements and misrepresentations which must be called to the attention of this Court. It is too late to undo the damage wrought by the hurried auction sale of the ABT assets in New Hampshire and Vermont. However, the major portion of the ABT assets which

Gould has been authorized to sell are located in New York City, and form the primary issue of this Petition for Writ of Certiorari.

Gould states in footnote 5 of his February 23, 1988 Affidavit:

> [5] "Similarly erroneous is the Economous claim that ABT assets located in New York, Wisconsin and Washington are being given away by me and that I have committed perjury in connection therewith. No assets of value have been relinquished by me without consideration, nor will any be disposed of without payment in the future."

The foregoing statement must be analyzed in several segments:

1) The statement that petitioners claim that Gould had given away or intended to give away any assets located in Wisconsin and Washington [DC] is a deliberate attempt to obfuscate the truth. Petitioners have factually stated that, although Gould long ago closed the ABT offices in Madison, WI and Washington, DC

and relinquished the leases, he has never revealed what became of the furnishings and business equipment housed in those two locations. Both offices were fully furnished and equipped, and the furnishings and business equipment in Wisconsin were all new and unused. It was not until December 16, 1987, that Gould was authorized to sell any ABT assets, apart from the ABT headquarters building, so an accounting from Gould should be mandatory regarding the disposition of the contents of the ABT offices in Wisconsin and Washington when the leases were terminated.

2) "No assets of value have been relinquished by me without consideration ..." Again excepting the ABT building, Gould was not authorized until December 16, 1987 to dispose of <u>any</u> ABT assets. To our knowledge, the February 24, 1988 New Hampshire auction sale, the day following

the date of his Affidavit, was the first authorized or announced sale of ABT assets. Therefore, Gould should be required to reveal what assets he referred to that were "relinquished by me" prior to that date.

3) Most egregious is Gould's denial that ABT assets are being given away by him and that he had committed perjury in connection therewith. Evidence on the record is clear that Gould has both committed himself to giving away large quantities of ABT assets and that he has perjured himself in attempting to deny that fact.

As a part of the contract relative to the sale of the ABT building to Birnbaum and Mindel signed March 2, 1987, Gould is "throwing in" all the contents of the 7 story ABT headquarters building in New York City, with the exception of

certain listed items which are purportedly (but not necessarily, as will be explained below) "Excluded." The building sale contract reads:

> "Seller hereby agrees to sell or convey to Purchaser .. all right, title or interest, if any, of Seller in or to all fixtures, machinery, equipment or other articles of personal property attached or appurtenant thereto, or used in connection therewith, if any, but specifically excluding therefrom the Excluded Items ... (which) shall remain the property of Seller and shall not be conveyed pursuant to this Agreement."

For this Court to appreciate the magnitude of this "giveaway" of the ABT customers' assets, involving furnishings, equipment and business machines unlisted in any inventory record and their value never estimated, a specific listing from memory (thus incomplete) follows:

> Approximately 65 desks and desk chairs, many unusually fine and custom made, including an extraordinary central-unit desk for two, custom designed and built ... Dozens of business machines, including several almost-new electronic typewriters,

> 20 or more electric typewriters, an equal number of calculators, etc. ... All furnishings of the office of ABT's President, which include a large, glass-topped executive desk, leather sofa and chair, 2 upholstered side chairs, a large walnut three-section bookshelf and cabinet unit, a large and fine painting, and other substantial appurtenances ... Conference room furniture, virtually unused, including custom designed and built oval conference table and 6 fine upholstered chairs ... Four large walnut bookcase-cabinet units, each consisting of three sections, each approximately 6' X 8', three of which are relatively new, and one smaller bookcase wall unit also in three sections ... A hand-carved Oriental silk brocade executive chair and two handcarved Oriental side tables, all new and unused ... Approximately 20 side chairs, and 10 or more credenzas ... Lunch room furnishings for about 24, including television ... Many framed and unframed oil paintings, water colors and other forms of artwork, some of fine quality ... and much more.

Contrary to the explicit terms of the contract, Gould now repeatedly denies that ABT assets are being given away to the building purchasers.

The ABT headquarters building sale contract specified certain items to be

"Excluded" from the assets being given away with the building, which consisted solely of the items listed in the C&L Report of "Major Equipment" (Appendix K). However, that exclusion is not absolute. The contract states:

> "Seller shall have the right, but not the obligation, to remove all or any of the Excluded Items from the Premises prior to the Closing Date ... Any Excluded Items not removed by such Date shall, as of such Date, be deemed abandoned by Seller and become the property of Purchaser." [Emphasis supplied.]

Thus, Gould has retained the option of "abandoning" any or all of what are generally the most valuable items in the building (Appendix K).

In addition to the foregoing, substantive other ABT assets are unaccounted for. Over and above the previously-mentioned contents of the ABT offices in Washington, DC and Wisconsin, are the office machines furnishings and equipment

removed from the ABT branch premises at 286 Fifth Avenue in New York City, believed to have been transferred to the ABT headquarters building, which would automatically include them in the massive "giveaway" of the contents of that building not on Gould's "Excluded" list.

Last, but far from least, is the ABT mailing list of 275,000 qualified names with actual replacement value of over $3,000,000. Upon information and belief, the mailing list was printed out in ABT's Concord, NH, computer department and shipped to the offices of Shea & Gould in New York, but the disposition, or planned disposition, of the list is not known.

C. Certiorari Should Be Granted Where Milton Gould, Esq. As Officer Of The Court Resorts To Perjury To Evade Accounting For ABT Assets He Is Giving Away Or Abandoning To The Purchasers Of The ABT Building

In a sworn affidavit submitted to

the U. S. Court of Appeals for the Second Circuit September 4, 1987 by Milton Gould, Esq. he perjuriously states:

> "All of the major furniture, fixtures and equipment in the ABT building were inventoried by Coopers & Lybrand, the accountants appointed by me in my capacity as Special Master to assist me in my evaluation of the financial condition of the ABT Entities. Their inventory appears as an exhibit to their report and is, in fact, annexed as Exhibit B. to the Contract as a list of items excluded from the premises being sold. Most of the items which the Economous claim are being "given away" by me are listed on the inventory and are specifically and expressly excluded from the sale of the ABT building. Obviously, these items are not being given away."

The above assertion is purjurious in that <u>not one single item</u> on the list of furniture, office machines and equipment itemized on foregoing pages 49 and 50, being given away to the ABT building purchasers by terms of the contract, appears on the list of ABT assets on the "Excluded" list (Appendix K).

Such perjury demonstrates the extent to which Milton Gould, Esq. is willing to compromise his integrity to evade having to fully account for the ABT assets which he is committed to giving away to the ABT building purchasers.

In his February 23, 1988 Affidavit, Gould again resorts to perjury by repeating (a) that he is not giving away ABT assets and (b) that the abandonment provision in the contract referred not to the valuable items on the "Excluded" list (Appendix K), but solely to "unsold and valueless assets from the building." The explicit terms of the contract --

> "Any Excluded Items not removed by such Date shall, as of such Date, be deemed abandoned by Seller and become the property of the Purchaser,"

give the lie to those assertions.

Throughout these proceedings, the SEC, despite its purported role as "protector" of ABT's customer/creditors,

has remained silent about the manifold unlawful procedures Gould has engaged in, the unaccounted for ABT fixed assets and the lack of any accounting whatever of the disposition of $23,000,000 or so in ABT liquid assets, except for a Gould announcement that an unstated portion of those assets were distributed to certain ABT customers in December, 1987.

In August, 1986, based on clear indications garnered during the course of the 1983-1986 SEC v. ABT legal proceedings, petitioners cautioned the 10,000 or so ABT customers that we believed it to be the intent of the SEC to cause maximum damage to be inflicted on those customers for the specific purpose of defaming the Economous and causing the demise and permanent denigration of the ABT exchange and marketplace and the ABT National Market System. SEC satisfaction with

Gould's implementation of that infamous intent through his conduct relative to the ABT liquidation procedures is apparent through their silence.

D. Milton Gould, Esq. As Officer Of the Court Engages In Unlawful Press Interviews To Defame ABT, ABTNMS And Arthur Economou With Malice Aforethought Through Fraudulent Misrepresentations And Nondisclosure Of Material Facts

Milton Gould's opinions as Officer of the Court in the ABT receivership liquidation proceedings are of major influence in establishing the tenor of any article for which he is personally interviewed by the financial and general media. Gould's unremittingly-negative posture in such interviews is reflected in the anti-ABT, anti-ABTNMS, anti-Arthur Economou tenor evident in any article or articles appearing in print.

An example of such a defamatory article, which broadly embraces Gould's

misrepresentations and fraudulent nondisclosure relative to the structure and operations of the ABT, the ABTNMS and the Economou factor during the exchange and marketplace organization's 17-year operational history, appeared March 31, 1987 in the Concord Monitor, a leading New Hampshire daily newspaper.

This Monitor feature article carried a three-part highly damaging sting of libel, slander and defamation encompassing a) intense and prejudicial anti-ABT, anti-ABTNMS and anti-Economou bias; b) fraudulent misrepresentations manifest in Gould's statements of purported facts and analysis of ABT operations; and c) Gould's fraudulent nondisclosure of material facts highly favorable to and supportive of ABT, ABTNMS and Economou, clear evidence of which can be readily and specifically demonstrated. No oppor-

tunity to publicly refute Gould's malicious propaganda has ever been offered the Economous.

From the outset of these proceedings, Gould, the Securities and Exchange Commission and the Office of the U. S. Attorney have conspired and contrived to conceal from the Courts, the ABT customers, the press, and the investing public, the true nature, financial resources and flawless operational history of the ABT exchange and marketplace for the specific unlawful purpose of destroying once and for all the competitive challenge posed by the emerging American Board of Trade National Market System, in clear violation of Sec. 11-A of the Securities Acts Amendments of 1975, the antitrust statutes of this country, and the Fifth and Fourteenth Amendments of the U. S. Constitution.

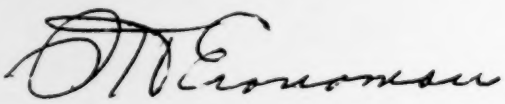
CONCLUSION

Based on the foregoing, petitioners urge this Court to grant their Petition for Writ of Certiorari.

Respectfully submitted,



Arthur N. Economou, Pro Se



Phyllis H. Economou, Pro Se

115 East 87th Street, #39A
New York, New York 10128
(212) 348-4384

New York, New York
July 14, 1988

APPENDIX A

83 Civ. 6213 (SWK)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - :

THE AMERICAN BOARD OF TRADE, INC, ARTHUR N. ECONOMOU, PHYLLIS H. ECONOMOU, and THE AMERICAN BOARD OF TRADE SERVICE CORP., :

Defendants. :

- x

MEMORANDUM OPINION AND ORDER

SHIRLEY WOHL KRAM, U.S.D.J.

Presently before this Court is the motion of Milton S. Gould, Special Master and Receiver of the American Board of Trade, Inc., the American Board of Trade Service Corp. and their related entities (the "ABT Entities") for an order authorizing the Receiver (a) to liquidate the

remaining assets of the ABT entities; (b) to make a first partial distribution to customers and creditors of the ABT Entities by (i) paying to ABT's Treasury bill customers the full amount of their claims, (ii) returning to ABT's spot commodity customers any specific and identifiable property held in their names, unless the Receiver is instructed in writing by any such customer to liquidate the commodity and to deliver the proceeds of such liquidation (less any service or handling fees charged to the Receiver) to the customer, and (iii) paying to all other customers whose claims are uncontested a sum equal to 22.5 per cent of their claim; (c) to retain David Strauss & Co., as auctioneers, to assist the Receiver in the liquidation of the ABT Entities' remaining assets; and (d) to take such

other and further action as is necessary and appropriate to effectuate the sale, liquidation or other disposal of any of the assets, premises, choses in action, claims, and other property of the ABT Entities (including, without limitation, the sale of commodities, furniture, computers, office equipment and other personal property belonging to the ABT Entities), and to publish and disseminate himmself or through his designated agents, notices of any such sales.

Pro-se defendant Arthur N. Economou submitted a Supplementary Memorandum of Points and Authorities ("Memorandum") and pro-se defendant Phyllis H. Economou submitted an accompanying Affidavit in opposition to this motion. In his Memorandum Mr. Economou opposes the Special Master and Receiver's motion on the following bases: (1) the motion is

defective because it was filed in violation of this Court's pre-motion conference rule and is not accompanied by a memorandum of law; (2) the motion does not assert a jurisdictional basis to "cover the sought objectives in liquidating real property and assets of The American Board of Trade currently stored in New Hampshire, Vermont, New York, Washington DC, Wisconsin, Texas, Illinois and other states" (Memorandum at 4); (3) the special Master and Receiver seeks authorization to employ an auctioneer in the liquidation process at a ten percent commission rate, in violation of New York law; and (4) the Receiver was appointed in violation of the requirements for such an appointment under New York law. In her accompanying Affidavit Mrs. Economou opposes the motion on the grounds that ABT spot commodity customers holding

"undivided interest" ABT-guaranteed certificates must be accorded priority payment in value of their holdings. In both the Memorandum and accompanying Affidavit the Economous oppose the motion on the grounds that the Special Master and Receiver should be required to render a full itemized accounting of all ABT assets and their appraised value before dispersing them through auction sales.

Defects in the Motion

Mr. Economou's allegation that the filing of the present motion without a preceding pre-motion conference constitutes a "substantive violation of law" (Memorandum at 3) warranting denial of the motion is without merit. Mr. Economou cites to Rule 3(1) of the Local Rules of this Court which provides "no motion of the type described in subparagraph (1) of paragraph (c) of this

rule shall be heard unless counsel for the moving party has first requested an informal conference with the court.." The referenced subparagraph refers only to motions brought under Rules 26 through 37 of the Federal Rules of Civil Procedure and to motions brought under certain Rules of the Federal Rules of Practice in Admiralty and Maritime Cases, none of which is applicable here.

In addition, Mr. Economou's assertion that the filing of this motion without an accompanying memorandum of law necessarily constitutes fatal error is also without merit. Rule 3(b) of the Local Rules of this Court provides: "Upon any motion the moving party shall serve and file with the motion papers a memorandum setting forth the points and authorities relied upon in support of the motion divided, under appropriate headings, into as many

parts as there are points to be determined. The opposing party shall serve and file with the papers in opposition an answering memorandum, similarly divided, setting forth points and authorities relied upon in opposition. Failure to comply may be deemed sufficient cause for the denial of the motion or the granting of the motion by default."

The Special Master and Receiver's moving papers are accompanied by an affidavit, which cites to authority in this circuit. The Memorandum submitted in opposition to the motion also cites some case law but also does not comply with the Rule's requirements regarding subheadings. This Court, however, deems that these submissions are sufficient to overcome either sua sponte denial or the granting by default of this motion.

Jurisdiction Over Out of State Assets

Mr. Economou's assertion that this Court lacks jurisdiction to authorize the disposition of assets of the ABT Entities which are located outside New York State is without merit. It is clear that this Court has personal jurisdiction over the ABT Entities whose prinicpal [sic] place of business is New York.

Appointment of a Receiver

Mr. Economou's present objections to the appointment of a Receiver in this case are without merit. This Court appointed the Receiver in an order dated September 2, 1986. Securities and Exchange Commission v. American Board of Trade, 645 F. Supp. 1047, 1053 (S.D.N.Y. 1986). That decision was reviewed and affirmed by the Second Circuit in a decision and order dated September 28, 1987, in which the Court stated that "[a]lthough neither the Securities Act

of 1933 or the Securities Exchange Act of 1934 explicitly vests district courts with the power to appoint trustees or receivers, courts have consistently held that such power exists where necessary to prevent teh [sic] dissipation of a defendant's assets pending further action by the court." Securities and Exchange Commission v. American Board of Trade, 830 F.2d 431, 436 (2d Cir. 1987) (citations ommitted [sic]). Moreover, Mr. Economou's objections to the actions the Receiver now moves to undertake, namely the liquidation and first partial distribution of the remaining assets of the ABT entities, are without merit. The Receiver moves to proceed in strict accord with the recommendation in the Special Master's Report, which was approved by this Court on February 2, 1987. Securities and Exchange

Commisssion [sic] v. American Board of Trade, 83 Civ. 6213, Slip. Op. (S.D.N.Y. February 2, 1987).

Appointment of an Auctioneer

Mr. Economou's objection to the appointment of an auctioneer is similarly without merit. The Special Master and Receiver seeks to employ an auctioneer in order to assist him in the liquidation of the ABT assets, which are to be disposed of by auction to the highest bidder. This Court finds that the requested appointment is in complete accord with its order of February 7 [sic], 1987, Id., adopting the Special Master's Report.[1]

---

[1]Mr. Economou's argument that the appointment of an auctioneer at a ten percent commission violates New York law is similarly without merit. Mr. Economou's reference to Section 5228 of New York's Civil Practice Law and Rules in this regard is inappropriate. That section applies to the appointment of a receiver to enforce a money judgment obtained under New York law.

Accounting

This Court is not pursuaded by the Economou's present request for a full accounting of the ABT Entities' assets. A full accounting of the ABT assets, compiled by Coopers & Lybrand, was annexed to the Special Master's Report to this Court dated November 4, 1986 and adopted by this Court on February 2, 1987.

The Economou's apparent request for an update of that accounting is unwarranted in light of the thoroughness of the original accounting and the substantial delay in the distribution of assets that would occur if a second accounting were to begin at this time.

Priority to Holders of "Undivided Interest" ABT-Guaranteed Certificates

The Special Master and Receiver moves to make a first partial distribution by paying ABT's Treasury bill

customers the full amount of their claims and returning to ABT's spot commodity customers any "specific and identifiable" property held in their names or alternatively to liquidate said property and to deliver proceeds, minus the liquidation fees, to the customer. Mrs. Economou objects, and requests that in addition all ABT spot commodity customers holding "undivided interest" ABT-guaranteed certificates be accorded priority payment in full value of their holdings.

The Special Master and Receiver's motion is in accord with this Court's order of February 2, 1987, adopting the Special Master's Report, and directing that in distributing the assets of the ABT entities, ABT's Treasury bill customers should be entitled to the return of their investments in full and ABT's spot commocities [sic] customers

should be entitled to the return of the specific and identifiable properties held in their names. Mrs. Economou's request is without the scope of that order and the Second Circuit's subsequent review.

In an order dated October 23, 1987, the Second Circuit approved this plan stating that these investors were entitled to priority under the doctrine of "trust pursuit" since ABT had established itself as a trustee for identifiable commodities. (Order at 2). In that order, the Second Circuit also stated that investors in reserve funds of ABT's spot commodities and forward markets and investors in commercial paper should not be accorded this priority because these investments do not involve an ascertainable res of the trust, even if other elements of a trust relationship could be established. (Order at 3).

Conclusion

For the reasons set forth above, this Court finds that the Economou's objections are without merit. The Special Master and Receiver's motion is therefore granted in full.

SO ORDERED.

Dated: December 16, 1987
N.Y. N.Y.

/S/
Shirley Wohl Kram
United States District Judge

APPENDIX B

83 Civ. 6213 (SWK)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - :

THE AMERICAN BOARD OF TRADE, INC, ARTHUR N. ECONOMOU, PHYLLIS H. ECONOMOU, and THE AMERICAN BOARD OF TRADE SERVICE CORP., :

Defendants. :

- x

NOTICE OF APPEAL

Notice is hereby given that defendants Arthur N. Economou and Phyllis H. Economou hereby appeal to the United States Court of Appeals for the Second Circuit from an Order, dated December 16, 1987, of the United States District Court for the Southern District of New York (Shirley Wohl Kram, D. J.) authorizing

special master and receiver Milton Gould, Esq., inter alia, to liquidate and dispose of the remaining assets of The American Board of Trade and entities.

Dated: New York, New York
January 12, 1988

/S/

ARTHUR N. ECONOMOU, Pro Se

/S/

PHYLLIS H. ECONOMOU, Pro Se
115 East 87th Street, #39A
New York, New York 10128
(212) 348-4384

TO: Securities & Exchange Commission
Attn: J. Stillman, Esq. &
E. Summergrad, Esq.
450 Fifth Street NW
Washington, DC 20549

Securities & Exchange Commission
Attn: Charles Padgett, Esq.
26 Federal Plaza
New York, NY 10007

Milton Gould, Esq., Shea and Gould
1251 Ave. of the Americas
New York, NY 10020-1193

Raymond F. Burghardt, Esq.
Clerk of the Court
United States District Court
Foley Square
New York, NY 10007

APPENDIX C

UNITED STATES COURT OF APPEALS

Second Circuit

United States Courthouse

Foley Square

New York 10007

PRO-SE/SO ((DCT)

7/22/87

ELAINE B. GOLDSMITH

CLERK

DC Initials SDNY

DC Dkt. # 83-CV-6213

DC Judge KRAM

DOCKET NO. 88-6026

SEC & EXCHANGE V AMER BD OF TRADE

CIVIL APPEAL SCHEDULING ORDER #1

MAKE ALL TELEPHONE INQUIRIES TO

(212 791-9189/0105

Noting that Arthur N. & Phyllis H. Economou, appellant pro se, has filed a Notice of Appeal, and being advised as to

the progress of the appeal,

IT IS HEREBY ORDERED that the district court shall be responsible for filing the record on appeal on or before February 8, 1988.

IT IS FURTHER ORDERED that the appellant's brief and appendix be filed on or before March 9, 1988. If appellant's brief does not exceed ten (10) pages, it may be filed in memorandum form.

IT IS FURTHER ORDERED that the appellee's brief be filed on or before April 8, 1988. If the appellee's brief does not exceed ten (10) pages, it may be filed in memorandum form.

IT IS FURTHER ORDERED that 10 copies of each brief or memorandum shall be filed with the Clerk; however, the filing of a lesser number may be permitted upon application.

IT IS FURTHER ORDERED that the appellee may, without further order of the court, file 10 copies of an appendix to its brief or 10 copies of an attachment to its memorandum.

IT IS FURTHER ORDERED that the argument of the appeal shall be heard as early as the week of May 2, 1988. The appellant pro se and opposing counsel should immediately advise the Clerk by letter of the dates thereafter on which they are unavailable for oral argument. The time and place of oral argument shall be separately noticed by the clerk to the appellant pro se and counsel.

IT IS FURTHER ORDERED that in the event of default by the appellant in timely filing the appellant's brief or memorandum and appendix, or upon default by the appellant regarding any other provision of this order, the appeal may

be dismissed forthwith without further notice.

IT IS FURTHER ORDERED that if the appellee fails to file a brief or memorandum within the time directed by this order, the appellee shall be subject to such sanctions as the court may deem appropriate.

ELAINE B. GOLDSMITH, Clerk
by:

/S/
Deputy Clerk

DATE: 1-29-88

APPENDIX D

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket Number 88-6026

SEC & EXCHANGE

Plaintiff-Appellee,

v.

AMER BD OF TRADE

Defendants-Appellants

NOTICE OF MOTION

for EMERGENCY APPLICATION FOR STAY OF AUCTION SALE SCHEDULED FOR FEBRUARY 24, 1988, IN CONCORD, NEW HAMPSHIRE

MOTION BY: Arthur N. Economou, Pro Se, and Phyllis H. Economou, Pro Se, 115 East 87th Street, #39A New York, New York 10128 (212) 348-4384

OPPOSING COUNSEL: Jacob H. Stillman, Esq. Eric Summergrad, Esq., Securities and Exchange Commission, Washington, DC 20549 (202) 272-2493

Has consent of opposing counsel:

A. been sought? / / Yes /x/ No

B. been obtained? / / Yes /x/ No

Has service been effected? /x/ Yes / / No

Is oral argument desired? / / Yes /x/ No

(Substantive motions only)

Requested return date:

(See Second Circuit Rule 27(b))

IMMEDIATE DECISION NECESSARY

Has argument date of appeal been set:

A. by scheduling order? /x/ Yes / / No

B. by firm date of argument notice? /x/ Yes / / No

C. If Yes, enter date: Early as week of May 2, 1988

EMERGENCY MOTIONS, MOTIONS FOR STAYS & INJUNCTIONS PENDING APPEAL

Has request for relief been made below? (See F.R.A.P. Rule 8) / / Yes /x/ No

Would expedited appeal eliminate need for this motion? / / Yes /x/ No

If No, explain why not: This is an Emergency Application requiring immediate attention and decision by this Court.

Will the parties agree to maintain the status quo until the motion is heard?

/ / Yes /x/ No

Judge or agency whose order is being appealed: Hon. Shirley Wohl Kram (S.D.N.Y.)

Brief statement of the relief requested: Emergency Application for 30-day Stay of auction sale of ABT assets scheduled by Milton Gould, Esq. without Notice to parties for February 24, 1988, in Concord, NH, pending filing of petition for writ of certiorari before judgment on March 8, 1988, with the United States Supreme Court.

Complete Page 2 of This Form

By: (signature of attorney) Pro Se

/S/

Signed name must be printed beneath

Arthur N. Economou, Phyllis H. Economou

Appearing for: (Name of Party)

Arthur N. Economou, Pro Se

Phyllis H. Economou, Pro Se

Appellant or Petitioner:

/ / Plaintiff /x/ Defendant

Appellee or Respondent:

/ / Plaintiff / / Defendant

Date: February 22, 1988

ORDER

Kindly leave this space blank Before:

Hon. Wilfred Feinberg, Ch. J., George C. Pratt, C.J., Peter C. Dorsey, D.J.

IT IS HEREBY ORDERED that the motion be and it hereby is xxxx denied

For The Court:

Elaine B. Goldsmith, Clerk

by /S/

Operations Mgr/Deputy Clerk

February 24, 1988 _____

Date Circuit Judge

APPENDIX E

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

United States Courthouse

Foley Square

New York 10007

ELAINE B. GOLDSMITH, Clerk

At a stated term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, in the City of New York, on the 21st day of March, one thousand nine hundred and eighty-eight.

U. S. COURT OF APPEALS

DOCKET NUMBER 88-6026

SEC & EXCHANGE	U.S. DISTRICT COURT
v.	and DOCKET NUMBER
AMER BD OF TRADE	SDNY 83-CV-6213
	KRAM (0873)

A scheduling order in accordance with

the Civil Appeals Management Plan of this Court having been entered herein, requiring the appeal, the appellant's brief and joint appendix to be filed on or before the dates stated on the scheduling order, and also providing that in the event of default by the appellant the appeal shall be dismissed forthwith, and it appearing that the appellant has so defaulted, defendants-appellants, pro se, Arthur N. Economou and Phyllis H. Economou

Upon consideration of the appeal herein it is

ORDERED that the appeal be, and it hereby is dismissed.

ELAINE B. GOLDSMITH, Clerk

by /s/ Deputy Clerk

A TRUE COPY

ELAINE B. GOLDSMITH

059 3/7/86 by /s/ Clerk

CERTIFIED: March 21, 1988

APPENDIX F

83 Civ. 6213 (SWK)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - :

THE AMERICAN BOARD OF TRADE, INC., et al, :

Defendants. :

- x

ORDER

SHIRLEY WOHL KRAM, U.S.D.J.

On July 18, 1986, the United States Court of Appeals for the Second Circuit issued an Order permitting this Court to appoint a new Master.

It is hereby ORDERED that:

1. Milton Gould, Esq. is appointed Special Master of this Court;

2. The duties of the Master shall

be the following:

a) to seek a resolution of this case;

b) to complete a full accounting of the financial condition of all affiliated entities of The American Board of Trade, Inc. ("the ABT entities"), including The American Board of Trade, Inc. ("ABT"), The American Board of Trade Service Corporation, and all other entities listed on Schedule A to the Supplemental Order of this Court dated June 12, 1986; and

c) to implement the wind-down program the Court formulates.

3. To fulfill these duties, the Master shall have all powers set forth in F. R. Civ. P. 53. He shall have the power to do all acts and take all measures

necessary and proper to fulfill his duties. These powers shall include, but not be limited to, the following:

a) The Master shall have the power to issue subpoenas to all parties and non-party witnesses as he deems necessary.

b) The Master shall have access to any and all documents relating to this action in the possession of the plaintiff, or the defendants, or any commercial paper holder or other ABT investor or creditor. The Master shall also have access to any and all documents relating to this action and not subject to Rule 6(e) of the Federal Rules of Criminal Procedure in the possession of the United States Attorney for the Southern District of New York. The Master shall have

the right to audit the books of the ABT entities on their business premises or wherever else such books may be located.

c) The Master may engage such assistance, clerical, legal or expert, as is necessary and at reasonable cost to carry out his duties. The Master may hire an independent certified public accountant to conduct the audit of the ABT entities or, at his discretion, retain the firm of Coopers & Lybrand. The Master shall keep contemporaneous records of time spent and shall itemize expenses incurred.

4. In fulfilling his duties, the Master is to follow these guidelines:

a) All proceedings, whether evidentiary hearings or informal

conferences, are to be conducted on the record with all parties represented;

b) All written communications by or with the Master shall be copied to the counsel for all the parties to this litigation.

c) findings of fact and conclusions of law under Rule 53(e)(1) are not required and this Court retains the ultimate responsibility for making such findings and conclusions, and for preparing a wind-down proposal.

d) The Master shall remain under the close supervision of this Court, reporting to the Court on his activities as this Court should request.

5. The Master shall prepare a report by October 1, 1986, containing a full

description of the current financial condition of the ABT entities. This report is to include:

a) an inventory of all available records of the ABT entities relating in any way to the amount of commercial paper currently outstanding;

b) a statement of the amount of commercial paper issued and outstanding, including a chronological breakdown of when it was issued and when it comes due;

c) a list of the names and addresses of the holders of commercial paper, the amount of paper each person holds, the date it was issued, and the date it is due; and

d) a full current financial statement of the ABT entities.

6. Any party or person may apply to

this Court on notice to the Master for a protective order against any activity of the Master. The Master may also apply to this court for assistance.

7. If, in the course of his duties, the Master obtains or reviews documents of the plaintiff which documents have not previously been provided to defendants, or the Master obtains or reviews documents of the defendants which have not previously been provided to plaintiff, then the Master shall obtain the consent of the producing party before such document is made available to the opposing party.

8. The amount of compensation for the Master's work shall be $200 per hour. The Master's compensation shall be paid, and all expenses incurred, shall be reimbursed, on a monthly basis. The ABT entities listed above shall pay the fees

and expenses of the Master. The Court is ordering ABT to reimburse the fees and expenses of the Master because ABT's inability to provide financial information has prompted the appointment of the Master. Furthermore, ABT is seeking a complete wind-down, while the SEC is satisfied just to lift the stay in the case.

9. The parties shall have ten days to file any objections to the Master's report. The Court shall then hold a hearing on the issues of whether the Master's report shall be adopted, modified, or rejected.

SO ORDERED.

/S/
SHIRLEY WOHL KRAM
UNITED STATES DISTRICT JUDGE

Dated: New York, New York
July 31, 1986

APPENDIX G

ARTHUR N. ECONOMOU
115 East 87th Street, #39A
New York, New York 10128
(212) 348-4384

March 8, 1988

EXPRESS MAIL

Elaine B. Goldsmith, Clerk,
U. S. Court of Appeals
for the Second Circuit
United States Courthouse
Foley Square
New York, New York 10007

Re: SEC v. THE AMERICAN BOARD OF TRADE, INC.,
Docket No. 88-6026

Dear Ms. Goldsmith:

Our Emergency Application (Motion) of February 22, 1988, for a stay of the American Board of Trade ("ABT") auction sale in Concord, NH, denied by this Court

February 24, 1988, was based on our stated intentions and plans to file petition for writ of certiorari with the United States Supreme Court on March 8, 1988, before judgment of the above-Docketed appeal.

The purpose of this letter is to advise the Court that two recent procedural developments have induced the necessity for revision of our pleadings prepared for submission to the Supreme Court today, March 8, 1988.

The revisions are required owing to the implications we perceive in:

1) The Notice of Motion filed under Index No. 12578/87 in the Supreme Court of the State of New York, County of New York, by Eric Moss, Esq., assigned to Justice McCooe, I.A.S. Part 8, seeking a $460,000 summary judgment on behalf of 15 ABT customers against Mrs. Economou and

me, personally, on the grounds that we are collaterally estopped, based on litigation in Federal Courts, from denying certain adjudicated facts. The Motion is dated February 19, 1988, and was received in the mail on February 29, 1988, returnable March 10, 1988; and

2) The Memorandum Opinion and Order issued by the district court in 83 Civ. 6213 (SWK), related to three Motions brought by me, two of which were initiated in August 1987 and the third in September 1987. The district court Memorandum Opinion and Order was dated March 2, 1988, and was received in the mail March 7, 1988.

The required revisions of our petition for a writ of certiorari before judgment for filing with the United States Supreme Court will, as a practical matter, involve a delay of two to three days.

Ten copies of this letter with

annexed copies of attorney Moss' Notice of Motion and the district court's Memorandum Opinion and Order are submitted herewith for filing with the Court under Docket No. 88-6026.

Respectfully,

Arthur N. Economou, Pro Se

Enclosures

cc: Hon. Charles Fried, Solicitor General, Washington, DC

Securities and Exchange Commission, Washington, DC, 20549 Attn: Jacob Stillman, Esq. and Eric Summergrad, Esq.

Milton S. Gould, Esq., Shea & Gould, New York, NY, 10020

Eric Moss, Esq., Great Neck, NY, 11021

APPENDIX H

ARTHUR N. ECONOMOU
115 East 87th Street, #39A
New York, New York 10128
(212) 348-4384

March 17, 1988

EXPRESS MAIL

Elaine B. Goldsmith, Clerk,
U. S. Court of Appeals
for the Second Circuit
United States Courthouse
Foley Square
New York, New York 10007

Re: SEC v. THE AMERICAN BOARD OF TRADE, INC.,
Docket No. 88-6026

Dear Ms. Goldsmith:

Our March 8, 1988, letter to the Court pertained to new procedural developments in two ongoing proceedings in which Mrs. Economou and I are appearing

as Pro Se defendants. The two developments outlined were:

1. Notice of Motion, dated February 19, 1988, filed under Index No. 12578/87 in the Supreme Court of the State of New York, County of New York, by Eric Moss, Esq. seeking a $460,000 summary judgment on behalf of 15 ABT customers against Mrs. Economou and me, personally; and

2. The March 2, 1988, Memorandum Opinion and Order issued by the district court in 83 Civ. 6213 (SWK), related to three Motions brought by me, two of which were initiated in August 1987 and the third in September 1987.

The two developments induced the necessity for revisions of and a delay in the filing with the United States Supreme Court of our petition for writ of certiorari before judgment, planned for March

8, 1988, as outlined in our March 8, 1988, letter to the Court. The delay in filing has proved longer than we had anticipated.

On March 10, 1988, I appeared at a hearing in the State Supreme Court case No. 12578/87 before Justice McCooe, I.A.S. Part 8, with a counter Motion for an extension of time to file answering papers to the Moss Motion. I was granted an extension to May 5, 1988.

The Moss lawsuit, however, involves Constitutional issues of freedom of expression, due process and equal treatment of law under the First, Fifth and Fourteenth Amendments. The issues will be developed for the Moss case, but will be filed in the United States Supreme Court SEC/ABT proceedings as supplemental briefs pursuant to the Supreme Court's Rule 22.6.

In its March 2, 1988, Memorandum

Opinion and Order, the district court erected another suppressive roadblock to thwart the Economous in the SEC/ABT proceeding. The September 8, 1986, Gag Order was materially broadened on the basis of a footnote in Milton Gould, Esq.'s reply affidavit of December 4, 1987, in which proceeding the Gag Order was not an issue. The district court, however, seized upon the footnote as a basis to expand the coverage of its September 8, 1986, Gag Order to include all ABT customer/creditors, rather than only the ABT commercial paper noteholders originally specified. In addition, the terms of the Gag Order were further broadened to require that any proposed Economou message to the ABT customers be first submitted for approval not only by the district court, but also by Gould, the SEC and any other parties.

The foregoing First Amendment issue will be included as a Rule 22.6 supplemental brief in the Supreme Court filings.

In procedural filings with the district court, the Second Circuit and the Supreme Court, we have detailed the accrued unpaid cash claims of two of our wholly-owned corporations, claims totalling approximately $2,000,000 owed to those corporations by the ABT complex. The $2,000,000 claims represent actual cash benefits, produced by the two corporations, which accrued in cash directly in the accounts of the ABT Clearing Corp. and the ABT Service Corp.

Initially, Milton Gould, Esq. demanded substantiation of our claim to the $2,000,000 to his satisfaction. A year ago, I specifically requested and applied to Gould for guidelines regard-

ing the form of documents and evidence which would meet his criteria for substantiation, over and above the documentary evidence already in his possession. To date, no guidelines, clarification or assistance has been forthcoming from Gould.

Now, in a "shifting sands" thrust, Gould contrived and initiated another legal basis to suppress and thwart our valid claim to the unpaid cash benefits produced by services rendered by two Economou corporations, which accrued, unpaid, in the accounts of the two ABT organizations. Gould is now citing the doctrine of equitable subordination to completely block our claim to approximately $2,000,000 of accrued cash benefits.

In a letter to Mrs. Economou dated February 23, 1988, Gould sets forth his

latest legal basis in one paragraph, as follows:

> "It is the well-established law that courts may subordinate the claims of shareholders, officers and directors of insolvent companies where the claimants were found to have engaged in fraud, mismanagement, self-dealing or other breaches of trust. See, e.g., Pepper v. Litton, 308 U.S. 295, 304-05 (1939); Matter of Teltronics Services, Inc., 29 B.R. 139, 169 (Bkrtcy. S.D.N.Y. 1983). In light of the Second Circuit Court of Appeals' characterization of the ABT Entities as a "Ponzi scheme," Securities and Exchange Commission v. American Board of Trade, Inc., 830 F.2d 431, 433 (2d Cir. 1987), I believe it is my duty to object to your claims, and to those asserted by your husband, upon the ground set forth above."

Thus, without any formal charge, or findings, or trial, the Economous have been accused and convicted by Gould of engaging in fraud, mismanagement, self-dealing (and) other breaches of trust, and, for good measure, of participation in a "Ponzi scheme," initially concocted without substantiation by the SEC and adopted as a fact by the Second Circuit.

Gould's new approach or basis to block claim to the $2,000,000 accrued cash benefits produced by the Economou-owned corporations, by linking alleged acts of fraud and a Ponzi scheme to the Economous, was simultaneously contrived and initiated by attorney Moss in his recent Motion for summary judgement in the amount of $460,000 on behalf of 15 ABT customers.

This concerted Gould-Moss legal maneuver will form the subject of a supplementary brief which we will file with the Supreme Court pursuant to Rule 22.6.

Because of this extensive and expanded workload for the Pro Se Economous, the new filing with the Supreme Court of petition for writ of certiorari before judgment will take more time than at first anticipated.

Ten copies of this letter are submitted herewith for filing with the Court under Docket No. 88-6026.

Respectfully,

Arthur N. Economou, Pro Se

ANE/gb

To: Hon. Charles Fried, Solicitor General, Washington, DC

Securities and Exchange Commission, Washington, DC, 20549 Attn: Jacob Stillman, Esq. and Eric Summergrad, Esq.

Milton S. Gould, Esq., Shea & Gould, New York, NY, 10020

Eric Moss, Esq., Great Neck, NY, 11021

APPENDIX I

MILTON S. GOULD, AS RECEIVER FOR

THE AMERICAN BOARD OF TRADE ENTITIES

STATEMENT OF INCOME AND EXPENSES

SEPTEMBER THRU DECEMBER 1986	
INCOME	$ 205,164.03
EXPENSES	494,102.14
NET PROFIT (LOSS)	($ 288,938.11)
JANUARY THRU DECEMBER 1987	
INCOME	$1,294,177.48
EXPENSES	924,169.18
NET PROFIT (LOSS)	$ 370,008.30
COMBINED 1986 AND 1987	
INCOME	$1,499,341.51
EXPENSES	1,418,271.32
NET PROFIT (LOSS)	$ 81,070.19

APPENDIX J

MILTON S. GOULD, Receiver
The American Board of Trade, Inc.
9 South William Street
New York, New York 10004

February 10, 1988

To All Customers and Creditors
of The American Board of Trade, Inc.
and its Related Entities:

I wish to provide you with a status report concerning the American Board of Trade, Inc. and its related entitles [sic].

1. First Interim Distribution

Pursuant to an order of District Judge Kram, dated December 16, 1987, in late December, 1987, I made a first interim distribution of ABT's assets to holders of ABT commercial paper and to other general creditors of ABT in an amount equal to 22.5% of each undisputed

claim. In addition, pursuant to the District Court's order, I made a final distribution to all holders of Treasury bills purchased through ABT. Arrangements are currently being made to distribute to holders of interests in spot commodities purchased through ABT the full value of those commodities. Certain claims were filed in amounts in excess of the amounts reflected on ABT's books and records. Those claims are under dispute and no payment has yet been made with respect to them. I intend to file objections to those claims with Judge Kram in the near future. Any customer whose claim is objected to will be provided additional notice of the objection and will be given an opportunity to be heard by the Court.

I will not be providing any customers with tax forms relating to the

distributions of ABT's assets described above, nor am I required to report those distributions to the Internal Revenue Service. I regret that I am also unable to render advice to individual customers concerning the appropriate treatment of those distributions for income tax purposes.

2. Liquidation of Remaining Assets

Judge Kram's December 16 Order also authorized me to liquidate all of the remaining assets of the ABT Entities. In furtherance thereof, I have scheduled a public auction sale of ABT's assets located in Vermont and New Hampshire at ABT's offices at 132 North Main Street, Concord, New Hampshire, on February 24, 1988, commencing at 11:00 a.m. I expect to conduct a similar public auction sale of the remaining ABT assets (excluding commodities) at ABT's building in New

York City later in the spring. No specific notice of that auction sale will necessarily be provided to you. However, the sale will be advertised in The New York Times and other publications. I have not yet closed on the sale of the ABT Building due to the pendency of certain litigation which is described below.

3. Pending Litigation

Mr. and Mrs. Arthur N. Economou have petitioned the United States Supreme Court for a writ of certiorari to review the decisions of the Second Circuit Court of Appeals affirming Judge Kram's orders which (a) among other things, appointed a receiver to administer the assets of the ABT Entities, and (b) confirmed the sale at public auction of the ABT Building for $4.1 million. I intend to oppose the Economous' applications and expect the Supreme Court to rule promptly. As a

result of the Economous' filing of their applications, and in accordance with the terms of the contract of sale of the ABT Building, no closing of that sale can take place until the Supreme Court rules.

4. Additional Distributions

I do not expect to make any additional interim distributions of ABT assets. A final distribution will be made by me once all of the remaining assets are fully liquidated and all pending litigation is resolved. I cannot at this time predict with any certainty when that will occur, however I am hopeful that such distribution will occur in 1988.

As always, I will keep you advised of all significant developments in this matter. I appreciate your continuing patience.

Very truly yours,

/s/
Milton S. Gould
Special Master and Receiver

APPENDIX K

Coopers & Lybrand "LIST OF MAJOR EQUIPMENT" In The ABT Building in New York City, Exhibit H-2, Pg 1 of the Special Report, Volume I

(Total ABT Equipment Reported In NY)

1 IBM Printer, Model 5211
1 IBM Printer, Model 5225
1 IBM Printer, Model 5256
1 IBM Diskette System, Model 5340
13 IBM Display Stations
2 IBM Standard Registers
1 Oriental couch*
2 Oriental chairs*
1 Oriental desk*
2 Oriental stools*
1 Oriental rug 9 x 15*
1 Oriental rug
1 Oriental bookcase, 3 sections
1 Oriental cabinet
2 Oriental pictures
2 Oriental picture frames
5 Sharp Xerox Machines
2 End desks*
2 Modern book cases*
2 Chairs*
8 Desk chairs*
2 Side chairs*
1 Credenza*
1 General Electric TV set*
1 Large desk
2 Blue straight back chairs
1 Blue desk chair
4 Brown straight back chairs
3 Word processors
1 Cadillac Fleetwood limousine, 1981

* Unused

APPENDIX L

Coopers & Lybrand "LIST OF MAJOR EQUIPMENT" In Burlington, VT and Concord, NH, Exhibit H-2, 3, 4 of the Special Report, Volume I

(Total ABT Equipment Listed in NH & VT)

1 - 1 Compugraphic Editwriter 7500
2 - 1 Compugraphic Zebra 8000z Processor
3 - 1 Compugraphic Easy Coat Waxer
4 - 1 Compugraphic Light Table 3040
5 - 1 Loge Robertson Repro Camera
6 - 1 Magna Craft Labeler
7 - 1 Cheshire Labeler
8 - 2 Phillipsburg Inserter, Model 10000
9 - 1 Phillipsburg Inserter, Model 7500
10 - 2 Bunn Tying Machines
11 - 4 IBM Display stations, Model 5251
12 - 1 IBM Display station, Model 5281
13 - 1 IBM Display station, Model 5285
14 - 2 IBM Display stations, Model 5291
15 - 2 IBM Printers, Model 5256
16 - 1 IBM system 34, Model 5340
17 - 1 Compugraphic ilm Dryer
18 - 1 Compugraphic Editwriter 7500
19 - 1 Compugraphic Editwriter 2500
20 - 1 Compugraphic Light table
21 - 1 Kenro Enlarger, Model 2600
22 - 1 Inserter, Model A340
23 - 1 Inserter, Model A397-4
24 - 2 Cheshire Labelers
25 - 1 Bunn Tier (sic)
26 - 1 Pitney Bowes Postage Machine
27 - 1 A.B. Dick Automatic Folder
28 - 1 Airplane Cessna 152, 1982
29 - 1 Mercedes 300 SD, 1980
30 - 1 Van Chevrolet G-10, 1981

APPENDIX M

FEB 16 '88 15:35 DAVID STRAUSS & CO., INC.

Sale: AMERICAN BOARD OF TRADE

Date: 2-24-88 Page: 1

CATALOG

LOT	QUAN	DESCRIPTION
1	1	METAL TYPE DESK
2	2	METAL TYPE DESKS
3	2	METAL TYPE DESKS
4	1	METAL MODULAR DESK
5	1	METAL MODULAR DESK
6	1	METAL D.P. DESK
7	1	METAL D.P. DESK
8	1	METAL D.P. DESK
9	1	METAL D.P. DESK
10	1	WALL UNIT
11	1	WALL UNIT
12	1	WALL UNIT
13	1	WALL UNIT
14	1	WOOD D.P. DESK (NO LEGS)
15	2	CHAIRS
16	2	METAL 4 DR. FILES
17	1	METAL 4 DR. FILE
18	1	METAL 4 DR. FILE (LEGAL SIZE)
19	1	METAL 4 DR. FILE
20	1	METAL 4 DR. FILE
21	1	METAL 4 DR. FILE
22	1	METAL 4 DR. FILE (LEGAL SIZE)
23	1	METAL 4 DR. FILE
24	1	WOOD D.P. DESK
25	LOT	WOOD DESK & CREDENZA
26	LOT	WOOD DESK & CREDENZA
27	2	LAMPS
28	LOT	METAL D.P. DESK & CREDENZA
29	LOT	METAL D.P. DESK & CREDENZA

30	1	CREDENZA
31	1	CREDENZA
32	LOT	CUT PIECES GLASS
33	1	GLASS TOP COCKTAIL TABLE
34	1	VALLET (sic)
35	1	METAL 4 DR. FILE
36	1	METAL 4 DR. FILE (LEGAL SIZE)
37	LOT	BOOKS APPROX. 95
38	2	METAL BOOKCASES
39	1	WOOD CABINET
40	1	METAL LEG TABLE
41	LOT	WOOD CREDENZA & BOOKCASE
42	LOT	WOOD DESK & CREDENZA
43	LOT	WOOD DESK & CREDENZA
44	LOT	WOOD DESK & CREDENZA
45	1	RECEPTION DESK
46	60	LIGHT FIXTURE COVERS
47	10	FLOURESCENT FIXTURES (sic)
48	2	METAL BOOKCASES
49	2	METAL BOOKCASES (BLK)
50	3	WOOD BOOKCASES
51	3	PAINTINGS ASST.
52	1	PORTABLE FILE
53	1	2 DR. FIREPROOF FILE
54	1	RECLINER
55	1	RECLINER
56	5	PICTURES
57	1	COMPUTER TABLE
58	1	COMPUTER DESK
59	1	COMPUTER DESK
60	1	GLASS TOP TABLE
61	3	PAINTINGS
62	1	WALL DISPLAY CASE
63	4	TABLES ASST.
64	17	FOLDING CHAIRS
65	LOT	SIGNS, STANDS & FANS
66	3	MAPS ASST.
67	1	STANDARD REGISTER HIGH
68	1	TYPE STAND
69	2	TYPE STANDS
70	1	STAND
71	1	MOSLER SINGLE DOOR SAFE

72	1	METAL CREDENZA
73	1	METAL CREDENZA
74	1	METAL CREDENZA
75	1	COMPUTER TABLE
76	1	COMPUTER TABLE
77	3	PIECES ASST. LAMP, MAGNIFIER & HOLDER
78	1	METAL D.P. DESK
79	1	METAL D.P. DESK
80	2	HUMIDIFIERS
81	1	METAL CABINET
82	1	TOSHIBA BD-3503 COPIER
83	1	METAL D.P. DESK
84	1	METAL D.P. DESK
85	1	METAL D.P. DESK
86	1	METAL D.P. DESK
87	1	METAL CREDENZA
88	LOT	OFFICE PARTITIONS (3 PCS)
89	1	METAL UTILITY CABINET
90	1	COMPUGRAPHIC ZEBRA PROCESSOR
91	1	METAL CABINET
92	1	COMPUGRAPHIC LIGHT TABLE *
93	1	COMPUGRAPHIC ASD-3040 LIGHT TABLE *
94	1	COMPUGRAPHIC PAPER FILM DRYER
95	1	ASD 900 WAXER *
96	1	DIFFUSION TRANSFER PROCESSOR
97	1	METAL CREDENZA
98	1	COMPUGRAPHIC EDITWRITER 7500 *
99	1	COMPUGRAPHIC EDITWRITER 2750
100	1	COMPUGRAPHIC COMPUKWIK
101	1	FOLDING TABLE
102	1	KENRO 2600 REPO CAMERA *
103	LOT	2 TABLES & CLOCK
104	2	AIR CONDITIONERS
105	1	METAL D.P. DESK
106	1	METAL D.P. DESK
107	1	METAL D.P. DESK
108	1	METAL D.P. DESK
109	1	METAL CREDENZA
110	1	WOOD DRAFTING TABLE
111	1	METAL 4 DR. FILE

112	1	METAL S.P. DESK
113	1	IBM MOD. 5340 PROCESSOR *
114	1	IBM MOD. 5211 PRINTER
115	1	IBM MOD. 5251 DISPLAY TERM. *
116	1	IBM MOD. 5251 DISPLAY TERM. *
117	1	IBM MOD. 5251 DISPLAY TERM. *
118	1	IBM MOD. 5251 DISPLAY TERM. *
119	1	IBM MOD. 5281 PROGRAMABLE DATA STATION *
120	1	IBM MOD. 5285 PROGRAMABLE DATA STATION *
121	1	IBM 5218-A01 PRINTER
122	1	IBM 5256 PRINTER *
123	1	IBM 5256 PRINTER *
124	1	IBM 5291 DISPLAY TERMINAL *
125	1	IBM 5291 DISPLAY TERMINAL *
126	1	IBM DISPLAY WRITER SYSTEM
127	4	UPHOLSTERED CHAIRS
128	5	CAIN (sic) BACK SWIVAL (sic) CHAIRS
129	1	CONFERENCE TABLE
130	1	SPACESAVER FOLDING DRAFTING TABLE
131	1	CHALK BOARD
132	1	METAL LEG TABLE
133	6	SECTIONS SHELVING
134	1	METAL UTILITY CABINET
135	1	METAL 4 DR. FILE
136	LOT	METAL D.P. DESK & CREDENZA
137	LOT	METAL D.P. DESK & CREDENZA
138	1	METAL D.P. DESK
139	3	COAT TREES
140	3	SWIVEL ARM CHAIRS
141	1	TOSHIBA BD3508 COPIER
142	1	TOSHIBA CALCULATOR
143	LOT	RCA CAMERA & MONITOR
144	1	TOSHIBA BD3503 COPIER
145	3	TYPE STANDS
146	2	METAL CABINETS
147	1	T.A. COPIER #N/A
148	1	METAL MODULAR DESK
149	1	METAL CREDENZA

150	2	METAL BOOKCASES
151	1	PAYMASTER CHECK WRITER
152	1	ADLER MANUAL TYPE
153	1	ROYAL 440 MANUAL TYPE
154	1	ROYAL 440 MANUAL TYPE
155	1	ADLER 21d ELECTRIC TYPE
156	1	ADLER 21d ELECTRIC TYPE
157	1	ADLER 21d ELECTRIC TYPE
158	1	ADLER 21d ELECTRIC TYPE
159	1	ADLER 21d ELECTRIC TYPE
160	1	ADLER 131d ELECTRIC TYPE
161	1	ADLER 131d ELECTRIC TYPE
162	1	ADLER 131d ELECTRIC TYPE
163	1	ADLER 131d ELECTRIC TYPE
164	1	ADLER 131d ELECTRIC TYPE
165	1	IBM MEMORY WRITER
166	1	PAPER CUTTER
167	1	METAL D.P. DESK
168	1	FOLDING TABLE
169	2	CHAIRS ASST.
170	1	STENO CHAIR
171	1	COMPUTER TABLE
172	1	BOOKCASE
173	2	ARM CHAIRS
174	3	SWIVEL ARM CHAIRS
175	2	SWIVEL ARM CHAIRS
176	LOT	METAL D.P. DESK & CREDENZA
177	2	PICTURES
178	3	SWIVEL ARM CHAIRS
179	3	SWIVEL ARM CHAIRS
180	LOT	METAL D.P. DESK & CREDENZA
181	1	EXECUTIVE SWIVEL ARM CHAIR
182	1	METAL COMBO CABINET
183	1	CLARK 500 COPIER
184	1	METAL CREDENZA
185	3	UPHOLSTERED ARM CHAIRS
186	6	UPHOLSTERED ARM CHAIRS
187	3	CARD FILES
188	LOT	JIFFY BAGS
189	3	WOOD CHAIRS
190	2	FOLDING TABLES
191	1	FOLDING TABLE

192	2	FOLDING TABLES
193	LOT	CONTENTS OF ROOM (NO POSTAL TRAYS)
194	134	BOOKS ASST.
195	25	BOOKS ASST.
196	34	BOOKS ASST.
197	144	BOOKS ASST.
198	56	BOOKS ASST.
199	14	BOOKS ASST.
200	72	BOOKS ASST.
201	170	BOOKS ASST.
202	80	BOOKS ASST.
203	38	BOOKS ASST.
204	30	REAMS OF PAPER 8-1/2x14
205	30	REAMS OF PAPER 8-1/2x14
206	29	REAMS OF PAPER 8-1/2x14
207	2	STOOLS
208	2	METAL D.P. DESKS
209	1	STENO CHAIR
210	2	TYPE STANDS
211	1	TYPE STAND
212	3	STENO CHAIRS
213	2	STENO CHAIRS
214	3	SWIVEL ARM CHAIRS
215	3	SWIVEL ARM CHAIRS
216	3	ARM CHAIRS
217	3	ARM CHAIRS
218	3	SWIVEL ARM CHAIRS
219	2	SWIVEL ARM CHAIRS
220	3	SWIVEL ARM CHAIRS
221	4	SWIVEL ARM CHAIRS
222	2	STENO CHAIRS
223	1	ARM CHAIR
224	1	HAND TRUCK
225	1	ARMANO TIME CLOCK
227	1	PHILLIPSBURG INSERTER MOD. A-340-6 *
228	1	MOTORIZED CONVEYER
229	1	ZIP CODE ORGANIZER
230	1	PHILLIPSBURG INSERTER MOD. A-397-4 *
231	1	GESTETNER MEMO (sic) MACHINE

232	1	ELLIOT LABEL PRINTER
233	1	SCALE (60LB. CAPACITY)
234	2	SCALES ASST.
235	1	PITNEY BOWES POSTAGE BASE
236	1	PITNEY BOWES POSTAGE SCALE
237	1	PITNEY BOWES POSTAGE INSERTERMATE 3320 *
238	1	A. B. DICK 58 FOLDER *
239	1	CHESHIRE 716-013 LABELER *
240	1	CHESHIRE 716-013 LABELER *
241	1	CHESHIRE 563 MOTORIZED CONVEYER
242	1	CHESHIRE 563 MOTORIZED CONVEYOR
243	LOT	TABLE, COAT TREES & SMOKER
244	2	PAINTINGS (1 IN NEXT ROOM)
245	1	GLOBE
246	2	BRASS LAMPS
247	2	HI-BACK UPH ARM CHAIRS
248	LOT	EXECUTIVE DESK & CREDENZA
249	1	EXECUTIVE SWIVEL ARM CHAIR
250	2	WOOD BOOKCASES
251	3	WOOD BOOKCASES
252	1	WOOD TABLE
254	1	BRASS LAMP
255	1	FLOOR LAMP
256	1	RECLINER
257	1	SOFA
258	LOT	BOOKS (ON 3 CASES)
259	1	G.E. WINDOW AIR CONDITIONER
260	1	G.E. WINDOW AIR CONDITIONER
261	1	G.E. WINDOW AIR CONDITIONER
262	1	G.E. WINDOW AIR CONDITIONER
263	1	KENMORE WINDOW AIR CONDITIONER
264	1	KENMORE WINDOW AIR CONDITIONER
265	1	G.E. WINDOW AIR CONDITIONER
266	1	COMPUGRAPHIC LIGHT TABLE
267	1	CHESHIRE 525-E LABELER *
268	1	COMPUGRAPHIC EDITWRITER *
269	1	PHILLIPSBURG 1530 MAGNACRAFT INSERTER *
270	1	PHILLIPSBURG A-590-6 INSERTER *
271	1	PHILLIPSBURG A-340-6 INSERTER *

272	1	PHILLIPSBURG INSERTER (KNOCKED DOWN) *
273	1	COMPUGRAPHIC 800Z PROCESSOR *
274	1	LOGE-ROBERTSON CAMERA *
275	1	MOTORIZED CONVEYER
276	1	CHESHIRE MOTORIZED CONVEYOR
277	1	CHESHIRE MOTORIZED CONVEYOR
278	1	MOTORIZED CONVEYOR
279	1	MOTORIZED CONVEYOR
280	1	BUNN TYPING (sic) MACHINE *
281	1	BUNN TYPING (sic) MACHINE *
282	1	DIFFUSION TRANSFER PROCESSOR
283	1	1981 CHEVY VAN *
284	1	1980 MERCEDES 300 SD *
285	1	1982 CESSNA 152 AEROBAT *

* Listed in Coopers & Lybrand Special Report of October 4, 1986

Note: ID and Serial numbers omitted.